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KAR 008

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EXAMINER

MCKINLEY, CHRISTOPHER BRIAN

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 13 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Babiol (4,261,475). Babiol discloses the limitations of the claims including a device (figs. 1-3) comprising capsule (1) having closed bottom (1b) and open end (1g), cup-shaped diaphragm (2) having inner (2a) and outer (2b) portions, intermediate position (1c), wherein said diaphragm is stretched (fig. 3), inner diameter (diameter of sealing element 1f), flange (1a), plastic (col. 1, line 41) and a sealing element (1f) physically attached to said closed bottom.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Babiol as described in par. 2 in view of McBride et al. (5,356,021). Babiol as described in par. 2 discloses the limitations of the claims substantially excluding what McBride et al.

teach, retaining shoulders (fig. 1, inherent with pilfer band 26 and threads) and a tear-off line (serrated connection of pilfer band 26 and capsule) thereby providing a tamper-indicating feature. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Babiol as described in par. 2 with pilfer band features in order to provide a tamper indicating means.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Art Unit: 3781

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B. McKinley whose telephone number is (571) 272-3370. The examiner can normally be reached on Monday-Thursday, 7:00 AM - 5:30 PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. B. M./
Examiner, Art Unit 3781

/Anthony D Stashick/
Anthony D Stashick
Supervisory Patent Examiner, Art Unit 3781